

**SUBSTITUTE FOR
SENATE BILL NO. 251**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 47309, 47311, and 47315 (MCL 324.47309,
324.47311, and 324.47315), as added by 1995 PA 57.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 47309. A person shall not possess on any boat licensed
2 under this part or use in the waters of Lakes Michigan, Superior,
3 Huron, and Erie, and the bays of those lakes, within the
4 jurisdiction of this state, any pound or trap net, gill net, seine,
5 or any fixed, set, or movable net of any kind or description, the
6 meshes of which are different than the following:

7 (a) Gill nets with meshes of not less than 4-1/2 inches shall
8 be used for the taking of whitefish, lake trout, and yellow

1 pickerel. In Lake Erie, the nets shall have meshes not less than 4-
2 3/4 inches. The nets shall be set not nearer than 20 rods from the
3 shore of the mainland fronting Lake Superior and its bays. The nets
4 shall be set not nearer than 20 rods from the shore of the mainland
5 fronting Lake Michigan southerly from Seven Mile ~~point,~~**Point,**
6 Emmet ~~county,~~**County,** during the months of March, April, and May.
7 There shall be no nets, except gill nets, of any kind with mesh
8 larger than 2-3/4 inches set in the waters of Lake Superior within
9 a radius of 50 miles of the village of Houghton, Michigan, during
10 the period between October 10 and November 4, except by permit from
11 the department for the taking of spawn from trout for the fish
12 hatcheries.

13 (b) Gill nets with meshes of not less than 2-1/2 inches or
14 more than 2-3/4 inches may be set in water of any depth, and gill
15 nets with meshes of not less than 2-1/2 inches or more than 3
16 inches may be set in waters not exceeding 100 feet in depth, for
17 the purpose of taking herring, chubs, perch, and pilot fish,
18 commonly called menominees, wherever and whenever they will not
19 take to exceed 10% by weight of other fish, such percentage to be
20 determined by the department, by inspection of the fish taken in
21 the nets. All uninjured fish, except herring, chubs, perch, and
22 pilot fish, shall be returned to the waters from which they were
23 taken with as little injury as possible, by the persons lifting the
24 nets; all sound, undersized, and dead fish found in the nets are
25 the property of the state, and shall not be sold or disposed of,
26 but shall be dressed and brought in and delivered immediately to
27 the department at the fishing port of the person taking the fish.
28 The sound, undersized, and dead fish shall be then disposed of by
29 the department. If more than 10% of fish other than herring, chubs,

1 perch, and pilot fish are taken, then all of the other fish shall
 2 be disposed of by the department. An angler may have in his or her
 3 possession, not to exceed in quantity the percentage allowed of
 4 lake trout, whitefish, yellow pickerel, perch, or suckers, of a
 5 weight or length less than established by this part, which are
 6 caught in 2-1/2 inch to 2-3/4 inch or 2-1/2 inch to 3 inch mesh
 7 gill nets, as provided for in this subsection, but the same may be
 8 shipped and disposed of only under the direction of the department.
 9 All undersized fish taken over under this section shall be disposed
 10 of by the department to state, county, or charitable institutions.
 11 Parties handling the fish shall be paid not more than 3 cents per
 12 pound for boxing, packing, and icing the fish. The department shall
 13 remove or cause to be removed any of the nets if, from the
 14 inspection provided in this section, the department determines that
 15 the nets are taking more fish of species other than herring, chubs,
 16 perch, and pilot fish than allowed by this section.

17 (c) Gill nets with meshes of not less than 2-1/4 inches or
 18 more than 2-3/4 inches may be used to take blue back herring in the
 19 waters of Lake Superior and Whitefish ~~bay, Bay,~~ and those waters of
 20 the ~~straits~~ **Straits** of Mackinac bounded on the Lake Huron end by a
 21 line drawn from the southernmost tip of St. Martin ~~point, Point,~~
 22 Mackinac ~~county, County,~~ to the westernmost tip of Lime Kiln ~~point~~
 23 **Point** on Bois Blanc ~~island, Island,~~ thence in a southerly direction
 24 to the northernmost tip of Point Au Sable in T 38 N, R 2 W,
 25 Cheboygan ~~county, County,~~ and bounded on the Lake Michigan end by a
 26 line drawn from the southernmost tip of Seul ~~Croix point~~ **Choix**
 27 **Point** in Schoolcraft ~~county County~~ in an easterly direction to the
 28 Lansing ~~shoal lighthouse, Shoal Lighthouse,~~ thence to the White
 29 ~~shoal lighthouse, Shoal Lighthouse,~~ thence in a southeasterly

1 direction to the westernmost tip of Waugoshance ~~point~~**Point** in
2 Emmet ~~county,~~**County**, and Green ~~bay~~**Bay** of Lake Michigan, as
3 defined in section 47311, wherever they will not interfere with or
4 take whitefish or lake trout or any other fish protected under the
5 laws of this state.

6 (d) The department may issue permits to allow the use of gill
7 nets having meshes not less than 1-1/2 inches or more than 1-3/4
8 inches for taking smelt and alewife for commercial purposes under
9 rules and regulations as the department prescribes.

10 (e) Gill nets with meshes of not less than 1-1/4 inches or
11 more than 1-3/4 inches may be used to secure bait for use in
12 baiting hook lines, if the nets will not take undersized fish.

13 (f) Pound nets having meshes not less than 4-1/2 inches in the
14 lifting pot, crib, or pocket and in the heart and tunnel, and
15 having meshes not less than 5 inches in the lead, shall be used for
16 taking whitefish and lake trout. In the pound nets, meshes not more
17 than 3-1/2 inches may be used in 1 side of the pot or in the back,
18 being that part of the pot opposite the tunnel entrance. In fishing
19 with the pound nets, or any other pound nets permitted by this
20 part, the crib or pot and hearts and lead shall extend to or above
21 the surface of the water; the crib or pot and hearts shall be
22 entirely open at the top, the sides or walls of the pot or crib and
23 of the hearts shall be held vertically as near as possible and
24 shall have 5 or more stakes driven into the earth at the bottom of
25 the lake to hold the net in place. A pound net permitted under this
26 part or any part of the webbing of the net shall not be set in
27 water of a depth greater than 80 feet. Pound nets fished through
28 the ice may be held in place by fastening them to the ice without
29 the use of stakes.

1 (g) Pound nets having meshes not exceeding 3-1/2 inches in the
2 lifting pot or crib and in the tunnel inside the pot or crib, and
3 having meshes not less than 3-1/2 inches in that part of the tunnel
4 outside of the pot or crib and in the heart and lead, may be used
5 for taking all legal fish except whitefish and lake trout. Saginaw
6 ~~bay~~**Bay** shall be considered rough fish grounds, and other similar
7 bays may be designated by the department as rough fish grounds if
8 the catch of whitefish and lake trout taken in pound nets and trap
9 nets during the last 2 preceding years averaged less than 12% of
10 the total catch, on which grounds all legal fish caught in pound
11 nets and trap nets having meshes not exceeding 3-1/2 inches in the
12 lifting pot or crib may be taken and all lake trout and whitefish
13 taken in such nets set in all other waters shall be returned
14 uninjured to the waters. The department may issue permits to allow
15 the use of pound nets having meshes less than 3-1/2 inches in that
16 part of the tunnel outside of the pot or crib and in the heart and
17 lead for the taking of smelt and alewife for commercial purposes,
18 under rules and regulations as the department may prescribe, which
19 may include the waters in which the nets may be fished and the
20 period of time during which they may be used.

21 (h) Trap nets having meshes not less than 4-1/2 inches in the
22 lifting pot, crib, or pocket and in the heart and tunnel and having
23 meshes not less than 5 inches in the lead shall be used for taking
24 whitefish and lake trout. In such trap nets, meshes not more than
25 3-1/2 inches may be used in the tunnel inside the pot, in either
26 the front, back, or 1 side of the pot for a distance not exceeding
27 5 feet from the bottom of the net and in that portion of the bottom
28 of the net connected thereto for a distance not exceeding 5 feet,
29 and in the connecting ends for a depth and width not exceeding 5

1 feet, for the purpose of shoaling fish. These trap nets shall not
2 be used in any of the waters under the jurisdiction of this state
3 except in Lakes Huron and Erie and then only in such a manner that
4 no trap net or any part of the webbing of the net is set in water
5 of a depth greater than ~~80~~**150** feet. Trap nets having meshes as
6 described in this subsection and with no part of the lifting pot or
7 crib over 15 feet in depth may be used to take whitefish and lake
8 trout in Lakes Superior and Michigan in water of a depth not
9 greater than ~~80~~**150** feet.

10 (i) Trap nets having meshes not exceeding 3-1/2 inches in the
11 lifting pot or crib and in the tunnel inside the pot or crib and
12 having meshes not less than 3-1/2 inches in that part of the tunnel
13 outside of the pot or crib and in the heart and lead may be used
14 for taking all legal fish except whitefish and lake trout. The
15 depth of no part of the lifting pot or crib shall be greater than
16 15 feet. No such trap nets and no part of the webbing of the net
17 shall be set in water of a depth greater than 50 feet in Lakes
18 Michigan and Superior, or in water of a depth greater than ~~80~~**150**
19 feet in Lakes Huron and Erie. The department may issue permits to
20 allow the use of trap nets having meshes less than 3-1/2 inches in
21 that part of the tunnel outside the pot or crib and in the heart
22 and lead for the taking of smelt and alewife for commercial
23 purposes, under rules and regulations as the department may
24 prescribe, which may include the waters in which such nets may be
25 fished and the period of time during which they may be used. Trap
26 nets having a lifting pot or crib not exceeding 4 feet in depth may
27 have webbing less than 3-1/2 inches in the 2 sides of inner heart.

28 (j) Any pound net or trap net with meshes in the lifting pot
29 or crib between 3-1/2 and 4-1/2 inches, or any lifting pot or crib

1 of such nets with meshes between 3-1/2 and 4-1/2 inches, is illegal
2 and shall be seized and confiscated when found in use. Hoop nets,
3 fyke nets, drop nets, and gobbler nets are considered under this
4 part to be trap nets.

5 (k) Seines having wings with meshes of not less than 4 inches,
6 and the pocket or bag, the bag of which shall be not more than 1/4
7 the length of the seine, having meshes of not less than 2-1/4
8 inches, may be used to take carp, yellow pickerel, perch, herring,
9 and other rough fish if they do not interfere with or take
10 whitefish or lake trout. All seines in use or set along the shores
11 of the waters listed in section 47301, when unattended, shall have
12 a metal tag securely attached to the seine bearing the commercial
13 fishing license number of the owner or user of the seine. Minnow
14 seines not to exceed 80 feet in length and 8 feet in width may be
15 used in the Great Lakes and connecting waters.

16 (l) The measurement of the mesh of all nets and seines as
17 prescribed in this section shall be by extension measure. The size
18 of the mesh of all nets or netting used in fishing as provided by
19 this part shall be determined by extension measure, and the
20 measurement shall be made of meshes irrespective of where the net
21 or netting is found, whether in the water, on boat, on reel, on
22 dock, or in any other place on land. Extension measure means the
23 distance between the extreme angles of any single mesh, and the
24 measurements shall be taken between and inside the knots. All
25 measurements of the mesh in gill nets or gill netting shall be made
26 with a flexible steel gauge constructed and used as prescribed in
27 this section. All measurements of the mesh of gill nets or gill
28 netting shall be made by inserting in the mesh parallel with the
29 selvage a gauge made of spring steel free from rust, of a length

1 equal to the number of inches prescribed in this section for the
2 mesh measured. The ends of the gauge shall be free of sharp edges
3 or burrs. The gauge shall not be graduated, and any necessary
4 markings shall be placed near the ends of the gauge. The length of
5 the gauge measured parallel with the long edge shall not at any
6 point exceed or be less than the prescribed length by more than
7 $2/1000$ of an inch. Its width at any point shall not exceed $9/16$ of
8 an inch or be less than $7/16$ of an inch. Its thickness shall be
9 such that when it is set vertically on a solid anvil with its upper
10 end loaded with a dead weight between $7-1/2$ and $8-1/2$ ounces, the
11 gauge shall deflect at its middle $1/10$ of its length. The meshes to
12 be gauged shall be at least 3 meshes removed from the selvage or
13 side lines and shall not be stretched or manipulated in any way
14 prior to or after the insertion of the gauge, and the same mesh
15 shall not be gauged more than once. In gauging a mesh, the flexible
16 gauge shall be held only by the ends and bent between thumb and
17 forefinger, the bent rule shall then be inserted in the mesh
18 parallel with the selvage and with the collapsed mesh, and finger
19 pressure shall be released immediately, not gradually. If the gauge
20 does not straighten out completely under its own tension within 2
21 seconds after its release in the mesh without slipping a knot or
22 breaking the twine, the mesh is unlawful, and if the majority of 10
23 or more meshes selected at random by the enforcement officer from
24 any part or parts of the gill net or from the entire gill net or
25 from any gill netting being gauged are found to be unlawful, the
26 gill net or gill netting if found in use or in or upon any licensed
27 commercial fishing boat shall be seized and confiscated. If found
28 in possession but not in use, any such gill net or gill netting
29 shall be sealed by the enforcement officer with a suitable seal

1 provided by the department and, when once sealed and for so long as
 2 the seal remains intact on the net or netting, may be possessed by
 3 the owner until disposed of or destroyed by the owner as provided
 4 in this section. The gill net or gill netting shall not be disposed
 5 of or destroyed except under direction of a conservation officer
 6 and, until that time, shall be available for inspection by the
 7 department or any conservation officer. Any person who, without
 8 authority from the department, breaks or destroys a seal attached
 9 to a gill net or gill netting, or any person who refuses or
 10 neglects to produce for inspection any sealed gill net or gill
 11 netting, or who disposes of or destroys a sealed gill net or gill
 12 netting except under the direction of a conservation officer, is
 13 guilty of a misdemeanor and upon conviction is subject to the
 14 penalty provided for in section 47327. A person shall not use any
 15 gill net of a greater measurement than 11 feet in depth in any of
 16 the waters of the Great Lakes and the bays of the Great Lakes. In
 17 Lake Erie, a gill net shall not be over 36 meshes deep. ~~A trawl of~~
 18 ~~any kind shall not be licensed.~~

19 (m) Gill nets having meshes not less than 8 inches may be used
 20 for taking carp in Wildfowl ~~bay~~ **Bay** in Huron ~~county~~ **County**.

21 Sec. 47311. (1) A person shall not take from any of the waters
 22 listed in section 47301 any of the following:

23 (a) Lake trout, in Lake Huron and Lake Michigan from October 1
 24 to December 10; in Lake Superior from October 5 to November 4.

25 (b) Whitefish, in Lake Huron, ~~and Lake Michigan,~~ **and Lake**
 26 **Superior** from ~~October 1 to December 10;~~ in Lake Superior from
 27 ~~November 1 to November 26.~~ **November 1 to November 30.**

28 (c) Pike-perch (yellow pickerel), northern pike, from April 1
 29 to May 20. In Saginaw ~~bay,~~ **Bay**, as defined in section 47339, a

1 person shall not take pike-perch from March 5 to April 10. A person
 2 may spear pike-perch through the ice during the closed season in
 3 Lake Huron and the connecting waters of the Great Lakes for
 4 noncommercial use only.

5 (d) Perch, from April 15 to May 20. In the waters of Lake
 6 Michigan only, a person may take perch from April 25 to June 1. In
 7 Saginaw ~~bay, Bay~~, perch of legal size may be taken at any time. A
 8 person may take perch with hook and line at any time.

9 (e) White bass, in Lake Michigan at any time of the year. A
 10 person may take white bass with hook and line at any time.

11 (f) Suckers, from April 15 to May 20. In Saginaw ~~bay, Bay~~,
 12 suckers may be taken at any time. A person may take suckers with
 13 hook and line at any time.

14 (g) Black crappie, also known as calico bass, in Lake Huron
 15 from June 1 to August 25. In Lake Erie, Lake Michigan, and Lake
 16 Superior, black crappie may not be taken at any time.

17 (2) In the waters of Green ~~bay Bay~~ of Lake Michigan within the
 18 jurisdiction of this state, which for the purpose of this part are
 19 those waters lying inside a line drawn from the most southerly part
 20 of Point Detour to the most easterly points of Sumner and Poverty
 21 ~~islands, Islands~~, thence due south to the Michigan-Wisconsin
 22 boundary line, thence along the boundary line to the shore, a
 23 person shall not from April 15 to May 20 set, place, or use any
 24 gill net having meshes less than 4-1/2 inches. The department may
 25 issue permits under such rules and regulations as prescribed by the
 26 department to allow the use of gill nets having meshes not less
 27 than 2-1/4 inches or more than 2-3/4 inches for taking herring from
 28 the waters of Green ~~bay Bay~~ from April 15 to May 20, if the nets
 29 will not interfere with or take any other species of fish. The

1 closed seasons established by this section do not apply to Lake
2 Erie and the lower Detroit ~~river,~~ **River**, where nets shall not be
3 set and fish of any kind shall not be taken with nets from January
4 1 to March 10. A person may take carp with seines at any time from
5 these waters.

6 (3) In every case, the season shall open and close at 12 noon
7 on the dates named in this section.

8 (4) All live fish on which the season is closed shall be
9 liberated and returned to the water with as little injury as
10 possible, and any sound, dead fish, on which the season is closed,
11 shall be dressed, brought ashore, and delivered immediately to the
12 department at the department's fishing port, which fish shall be
13 disposed of in the same manner as provided for the disposition of
14 undersized fish in section 47309.

15 (5) A person shall not set nets or hooks for the taking of
16 lake trout or whitefish before the first day of the open season for
17 taking the fish, and the license of any person shall be immediately
18 revoked upon conviction of unlawfully setting nets before the first
19 day of the open season as provided in this part, and revocation
20 shall prohibit the use of boat and gear by that person during the
21 balance of the year for which a license was issued. A person
22 engaged in the taking of fish for commercial purposes from May 15
23 to September 15 under this part shall carry sufficient ice and
24 properly chill the fish at the time and place of their removal from
25 the waters.

26 Sec. 47315. The department, **or a designee of the department**
27 **acting in compliance with a permit issued by the department**, may
28 take fish in any manner, in any of the waters mentioned in this
29 part, at any and all seasons of the year, for the purpose of fish

1 culture ~~and-or~~ scientific investigation; may have and hold ripe and
2 unripe fish in order to take spawn from the fish; may sell all of
3 those ripe and unripe fish; and may devote the proceeds of the
4 sales exclusively toward defraying the expenses incurred in taking
5 the fish and fertilizing and planting the spawn from the fish.